



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature  
Second Regular Session

House: JUD DP 6-4-0-0

## **HB2507: religious services; essential services**

**Sponsor: Representative Toma, LD 22**

**Caucus & COW**

### **Overview**

Classifies religious services as an essential service during a state of emergency.

### **History**

*State of emergency* means the duly proclaimed existence of conditions of extreme peril to the safety of individuals or property within the state caused by air pollution, fire, flood, storm, epidemic, riot, earthquake or other causes which do not require the combined efforts of the state and the political subdivision ([A.R.S. § 26-301](#)).

During a state of emergency, the governor does have complete authority over all state agencies and the right to exercise all police power vested in this state ([A.R.S. § 26-303](#)).

The state government must not substantially burden an individual's exercise of religion unless the government demonstrates that applying the burden is the least restrictive means of furthering a compelling governmental interest. An individual may assert a claim or defense against the state government for a violation of the free exercise of religion. An individual that successfully asserts a claim or defense against the state government will recover attorney fees and costs ([A.R.S. § 41-1493.01](#)).

During the COVID-19 pandemic response of 2020, Governor Ducey issued an executive order on March 23, 2020, classifying businesses or organizations considered essential services to include, but not limited to healthcare and public health, human services and certain infrastructure and government functions operations. The issued executive order was later rescinded on September 29, 2021 ([E.O 2020-12](#)).

### **Provisions**

1. States that the state government may not take any discriminatory action against a religious organization on the basis that the organization:
  - a) Is religious;
  - b) Operates or seeks to operate during a state of emergency; or
  - c) Engages in the exercise of religion as protected under the first amendment of the United States constitution. (Sec. 1)
2. Specifies that in a state of emergency religious services are an essential service. (Sec. 1)
3. Outlines that in a state of emergency, the state government:
  - a) Must allow a religious organization to continue to engage in services to the same or greater extent than the government allows other organizations that provide essential services; (Sec. 1)
  - b) May require a religious organization to comply with safety or occupancy requirements that apply to all organizations providing essential services; (Sec. 1) and

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

- c) Is prohibited from enforcing any occupancy requirements that impose a substantial burden on a religious service unless the government demonstrates that applying the burden is the least restrictive means of furthering a compelling governmental interest. (Sec. 1)
- 4. Allows a religious organization to assert a claim or defense against the state government for a violation of the proposed provisions. (Sec. 1)
- 5. States that a religious organization that successfully asserts a claim or defense against the state government may recover declaratory and injunctive relief, compensatory damages, reasonable attorney fees and any other appropriate relief. (Sec. 1)
- 6. Specifies that a religious organization that successfully asserts a claim or defense against a private individual may only recover declaratory and injunctive relief. (Sec. 1)
- 7. States that the provisions above protect the free exercise of religion afforded by federal and state law in addition to the constitution of the United States and this state. (Sec. 1)
- 8. Asserts that the proposed provisions do not preempt, repeal or narrow any state or local law protecting the free exercise of religion. (Sec. 1)
- 9. Applies the proposed provisions to all state and local laws and ordinances. (Sec. 1)
- 10. Contains a severability clause. (Sec. 1)
- 11. Contains a legislative findings clause. (Sec. 2)
- 12. Defines *discriminatory act*, *religious organization*, *religious services* and *state government*. (Sec. 1)